

## **Working Group on Trade and Competition Policy**

### **Status**

At the December 1996 Singapore Ministerial Conference, Ministers established a working group “to study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework.” Whereas the Ministers took note of the fact that certain existing WTO provisions are relevant or relate to competition policy, they were careful to specify that the aim of this Working Group was educative and not intended to prejudge whether, at some point in the future, negotiations would be initiated to establish multilateral disciplines in this area. The Working Group on the Interaction between Trade and Competition Policy (WGTCP) was directed to draw upon the work of a companion working group, also established at Singapore, that was mandated to examine the relationship between trade and investment. The WGTCP was also encouraged to cooperate with UNCTAD and other intergovernmental organizations examining similar trade and competition policy issues in order to make the best use of available resources and to ensure that the development dimension is fully considered. The WTO General Council oversees the work of the WGTCP. While, in December of 1998, the General Council approved an extension of the Group’s work into 1999, it remains to be seen whether further work on competition policy will be done in a continuation of the WGTCP in 2000 and beyond.

### **Assessment of the First Three Years**

The Working Group only started its work in 1997. The United States has long been interested in addressing the extent to which anti-competitive conduct and restrictions on competition in foreign markets – as well as the inappropriate or inadequate application of foreign antitrust laws – act as barriers to the export of U.S. goods and services. The dispute with Japan over trade in photographic film is only one example where these kinds of issues have been relevant to the pursuit of U.S. trade policy goals. In reflection of these interests and concerns, the United States joined other WTO Members in authorizing establishment of the WGTCP. Although the educative work has been distracted at times by the efforts of some to dwell on issues such as antidumping, which are properly the responsibility of other WTO bodies, the Group by and large performed its work well. It did a good job of improving the WTO membership’s understanding of competition policy and of its supportive, complementary relationship to trade liberalization and economic growth. The United States has encouraged this aspect of the work program, as we know that the institution of competitive market structures not only helps the economies and consumers of other countries, it can also help assure better market access opportunities for firms exporting to those countries.

The proposal of some, such as the EU and Japan, to move on to the negotiation of multilateral competition rules has been opposed by many developing countries. The United States has expressed its own concerns about moving on to the negotiation of comprehensive competition rules, but the key consideration is not *whether* to consider and to address competition issues in the trade context, but *how* to do so most effectively and sensibly. The United States is prepared to work with its partners to determine the best way to move forward in this area. In any event, much can still be done in the WTO and elsewhere to address selective competition-related issues which arise in the course of negotiating market-opening agreements. The adoption of pro-competitive regulatory principles was an important feature of the WTO Agreement on Trade in Basic Telecommunications. Where similar approaches make sense in other sectors and industries, they should continue to be pursued.

### **Major Issues in 1999**

The WGTCP held three meetings in 1999, the last of which was devoted to the preparation of an annual report to the General Council. The Group continued to organize its work on the basis of written contributions from Members, supplemented by discussion and commentary offered by delegations at the meetings and, where requested, factual information from the WTO Secretariat and observer organizations such as the OECD, the World Bank and UNCTAD. In light of the new mandate given it by the General Council in December 1998, the Group's agenda was more focused than in previous years. Specifically, the General Council directed the WGTCP to explore new issue areas not addressed in its first two years of work. These were: (i) the relevance of fundamental WTO principles of national treatment, transparency and most-favored-nation treatment to competition policy; (ii) approaches to promoting cooperation and communication among Members, including in the field of technical cooperation; and (iii) the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade. All three areas of focus were addressed at the Group's two substantive meetings, and WTO Members shared a wide variety of views and experience – particularly as to whether trends recorded and observations to be made in these areas were or were not indicative of a need to negotiate a multilateral framework for competition rules.

### **Work for 2000**

WTO Members have actively debated the question of whether the issue of trade and competition policy is ripe for negotiations in the WTO and, if so, what the nature of those negotiations might be. Differing views prevail, and Members will undoubtedly need to continue their consultations to determine what should be the next steps on competition issues. The United States remains prepared to consider this matter with other WTO Members as other work moves forward and the broader WTO agenda is fashioned.